

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  WINSTAR COMMUNICATIONS, LLC	DOCKET NO. WRU-04-34
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**ORDER GRANTING WAIVER**

(Issued August 5, 2004)

On July 16, 2004, Winstar Communications, LLC (Winstar), filed with the Utilities Board (Board) a request for a waiver of 199 IAC 22.16 regarding the discontinuation of frame relay services to commercial customers throughout Iowa. The waiver request has been identified as Docket No. WRU-04-34. No objection to the request has been filed.

In support of its request, Winstar states that it is refocusing its business plan and has determined to discontinue frame relay services to commercial customers in Iowa. Winstar states that 17 customers will be affected by this discontinuance and that the other services provided by Winstar will not be affected. Winstar also states that it provided notice of the discontinuance to all of its affected customers. Winstar states that it advised its affected customers that Winstar will work with alternative carriers to effectuate a seamless transition of the affected customer to an alternative carrier's facilities. Finally, Winstar states that the anticipated date for the discontinuance of service is August 31, 2004.

Winstar requests a waiver of 199 IAC 22.16, which would require that a discontinuance of service could take place 90 days following the filing of a notice of intent to discontinue. Winstar plans to discontinue affected customers within 90 days of the date Winstar filed a notice of intent to discontinue with the Board. To grant the waiver, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.16 should be granted based on the Board's review of the information provided by Winstar. The Board finds that granting the waiver request would not pose an undue hardship on Winstar's affected customers as those customers have received sufficient notice and opportunity to select an alternative service provider. In addition, Winstar has demonstrated willingness to effectuate the seamless transition of its affected customers to other carriers. The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded since all of Winstar's affected customers have received notice of

the discontinuance of service and have been afforded an opportunity to change providers.

**IT IS THEREFORE ORDERED:**

The waiver request filed by Winstar Communications, LLC, on July 16, 2004, is granted as described in this order.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer  
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 5<sup>th</sup> day of August, 2004.